IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 3599 of 2007(O&M)

DATE OF DECISION: 02.04.2007

Gurtaj Singh ....Petitioner.

Versus

Union of India and another ....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. R.S. Atwal, Advocate
for the petitioner.

Mrs.Daya Chaudhary, Asstt.Solicitor
General of India, for the respondents.

J.S. Khehar, J. (oral)

CM No.5317 of 2007 is allowed. Written statement on behalf of respondent No.2 is taken on record.

The petitioner submitted an application form for the issuance of a passport with the Regional Passport Officer, Jalandhar. The aforesaid application form was submitted through the petitioner's mother on account of the fact, that the petitioner was/is a minor. Since no passport had been issued to the petitioner, the petitioner approached this Court by filing the instant writ petition. Before this Court the claim of the petitioner was that the Regional Passport Officer, Jalandhar, had declined to physically hand over the passport to the petitioner,but was inclined to forward the passport to the petitioner through post.

Consequent upon the issuance of notice of motion, written statement has been filed on behalf of respondent No.2. Paragraph 1 of the preliminary objections contained in the written statement is being extracted hereunder:-

> "1. That the present writ petition is liable to be dismissed on the ground of concealment of facts from this Court and the petitioner is approaching this Court not with clean hands as the mother of the petitioner Smt. Ramandeep Kaur has sent the affidavit which has not been signed by her. Smt. Ramandeep Kaur, the mother of the petitioner-applicant Master Gurtaj Singh applied for passport facilities in respect of her minor son vide file No.Z-480648/2006 dated 22.5.2004. Along with the application form, sworn affidavit dated 1.3.2006 signed by the mother of the applicant and attested by Shri Balraj Singh, Notary Public, Gurdaspur was also attached. The office of answering respondent has asked for consent of father or undertaking sworn affidavit from mother. An affidavit dated 31.10.2006 was submitted in the office of answering respondent which was signed by both the parents and it was attested by the Consulate General of India, Milan by which both the parents has authorized one Shri Satwinder Singh to make an application for passport of their minor son Gurtaj Singh. The mother of the applicant visited the office of the answering respondent on 12.1.2007 and confessed before the Passport Officer that she has not

> signed the sworn affidavit dated 1.3.2006, which is initially submitted with the application form. The mother of the applicant was asked by the Passport Officer to furnish the names and details of the person who signed the sworn affidavit dated 1.3.2006 but the mother of the applicant did not turn up. The mother of the petitioner has committed forgery as the signature of the mother has been put on the affidavit by other person than the mother of the petitioner and she has confessed before the Passport Officer. The present writ petition is liable to be dismissed on this ground alone. The copy of the letter dated 22.9.2006 is attached as Annexure R/1."

Despite the factual position noticed in the written statement, it is the contention of the learned counsel for the petitioner, that the petitioner's mother has submitted a fresh affidavit in accordance with law. It is the contention of the learned counsel for the petitioner, that the aforesaid affidavit was submitted on 29.3.2007. It is, therefore, the contention of the learned counsel for the petitioner, that the claim of the petitioner for the issuance of a passport should be adjudicated upon, on the basis of the fresh affidavit submitted by the petitioner's mother.

We find merit in the aforesaid contention of the learned counsel for the petitioner. Specially keeping in mind the age of the petitioner and the fact that his educational career is at stake, we consider it just and appropriate to direct respondent No.2. i.e. the Regional Passport Officer, Jalandhar, to re-examine the claim of the petitioner for

issuance of a passport, on the basis of the fresh affidavit submitted by the petitioner's mother on 28.3.2007.

Despite our aforestated conclusion, it is not possible for us to shut our eyes to the assertions contained in paragraph 1 of the preliminary objections contained in the written statement filed on behalf of respondent No.2. Accordingly, while disposing of the instant writ petition, we hereby grant liberty to respondent No.2 to initiate such proceedings as may be called for, in accordance with law.

Disposed of accordingly.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

April 02, 2007.
vig